



Modified PTO/SB/33 (10-05)

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number	
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450		Application Number	Filed
		10/058,805	January 30, 2002
		First Named Inventor	
		Hiroyuki TOMOIKE	
		Art Unit	Examiner
		2144	Tammy T. Nguyen
WASHINGTON OFFICE 23373 CUSTOMER NUMBER			
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal			
The review is requested for the reasons(s) stated on the attached sheet(s).			
Note: No more than five (5) pages may be provided.			
<input checked="" type="checkbox"/> I am an attorney or agent of record.			
Registration number		52,049	<u>Amelia F. Morani, Ph.D.</u> Signature
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		(202) 293-7060 Telephone number	
		February 22, 2006 Date	



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q68279

Hiroyuki TOMOIKE

Appln. No.: 10/058,805

Group Art Unit: 2144

Confirmation No.: 4726

Examiner: Tammy T. Nguyen

Filed: January 30, 2002

For: MOBILE COMMUNICATION SYSTEM AND DATA TRANSFERRING METHOD
FOR USE WITH MOBILE COMMUNICATION SYSTEM

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the new Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated August 22, 2005, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue:

Claims 1-7 are all the claims pending in the subject application and stand finally rejected. The Examiner maintains the rejection of claims 1-7 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Martin, Jr., et al.* (U.S. Patent No. 6,610,105) ("*Martin*") in view of *Fujii* (U.S. Patent No. 6,804,537) (Final Office Action, August 22, 2005; Advisory Action, December 16, 2005). Applicant traverses the rejection of all claims for the reasons provided below, directed in particular towards exemplary claim 4.

The Examiner acknowledges that *Martin* does not specifically "disclose a plurality of mobile stations, each of which communicates with said information terminal unit." (FOA page

7). Addressing the claim subject matter cited above, the Examiner cites “mobile station 108 communicating with terminal unit 106 of Fig. 1A” in *Martin* (FOA page 7).

However, claim 4 actually requires, “...said plurality of mobile stations are capable of *participating simultaneously* in communication with *a portable* information terminal unit.”

Regarding elements 106 and 108 in *Martin*, it is unclear if the Examiner relies on element 106 or 108 to provide the *portable information terminal unit* required by claim 4, therefore, we will address each element in turn. As to element 108, *Martin* teaches that element 108 represents an antenna and a base station comprising the operation and maintenance center performing switching and account services (Fig. 1A; col. 5, lines 27-40). Therein element 108 fails to provide a “*portable* information terminal unit” and rather discloses a large land based antenna and base station.

Assuming that the Examiner asserts element 106 of Fig. 1A in *Martin* discloses the *portable information terminal unit* required by claim 4, Applicant respectfully disagrees. Turning to *Martin* at Figs. 1A and 2A and at col. 5 lines 18-20, *Martin* teaches that element 106 is a mobile device. The Examiner further asserts that multiple mobile stations are connected to a terminal unit and are interchangeable, such that a mobile station can be substituted for a terminal unit and in turn communicate with remaining multiple mobile stations or mobile devices. (OA page 8). However, *Martin* fails to disclose wherein the terminal unit 108 can be interchanged for a mobile device 106 and further fails to disclose particularly that multiple mobile devices 106_{1-n} can communicate simultaneously with a one mobile device 106₁.

Rather, *Martin* teaches that multiple mobile devices are serviced by airnet 102 (col. 5, lines 19-21). Each mobile device 106 is capable of communicating with terminal unit/antenna 108 wirelessly via airnet 102 (col. 5, lines 24-26). *Martin* teaches that mobile devices 106 1-n

access database/host server, 130/128 (col. 7, lines 33-64) after authentication (col. 6, lines 40-65). Database 130 hosts a plurality of user accounts. *Martin* teaches away from a mobile device functioning as a portable information terminal in communication, simultaneously, with multiple mobile devices, disclosing that “mobile devices have very limited computing resources . . .” (col. 7, lines 1-2), and communication *with the information database 130* requires authentication (col. 6, lines 60-65). *Martin* teaches communication between a mobile device and a database or server (col. 6, line 38 to col. 7, line 33). There is no portability taught as being associated with a database or a server (*Martin*, col. 5, line 52 to col. 6, line 65; Figs. 1A to 2A). Further, *Martin* teaches that a PC 110 can be used to enable frequent transactions between a user of a mobile device and servers 130 or 132. Neither PC 110, servers 130 and 132, nor mobile devices 106 are taught to by *Martin* as providing a portable information terminal capable of communication with multiple mobile devices.

And finally, the Examiner asserts that *Martin* teaches mobile stations are capable of participating simultaneously in communication with *a portable information terminal unit*, citing col. 6, lines 40-45. Turning to *Martin* at col. 6, lines 40-45, *Martin* teaches that the “...*airnet* 102 communicates simultaneously with a plurality of mobile devices 106” (shown in Figs. 1A and 2A). *Airnet* 102 is defined as a wireless network (col. 4, lines 57-58). One of ordinary skill in the art would readily recognize that a wireless network is not a portable information terminal. FIGs. 1A and 1B and col. 6, lines 40-45 merely and only disclose an ordinary multiple access system, such as CDMA, TDMA and FDMA systems, in which mobile stations are connected to a wireless network (*Martin*).

Likewise, Terminal unit (base station) 108 fails to disclose a *portable* information terminal. And as discussed above, *Martin* fails to teach or suggest wherein a one mobile device

is a portable information terminal. Therefore, *Martin* fails to teach or suggest a plurality of mobile stations is capable of *participating simultaneously* in communication with a portable information terminal unit. Secondary reference *Fujii* also fails to teach or suggest this required element. *Martin and Fujii*, alone or in combination, fail to teach or suggest multiple mobile stations capable of simultaneous communication with a portable information terminal. At least for this deficiency, the rejection of claim 4 as being unpatentable over *Martin* in view of *Fujii* under 35 U.S.C. §103(a), should be withdrawn.

Claims 1, 2, 5, 6 and 7 require the subject matter asserted as distinguishable in the traversal of the rejection of claim 4, above. Applicants therefore assert an analogous argument in traversal of the rejection of claims 1, 2, 5, 6 and 7. Therefore, at least for this deficiency, the rejection of claims 1, 2, 5, 6 and 7 as being unpatentable over *Martin* in view of *Fujii* under 35 U.S.C. §103(a), should be withdrawn.

Claim 3 requires a first mobile station, capable of participating simultaneously with at least a second mobile station, in communication with a portable information terminal. As discussed above, *Martin* and *Fujii* fail to teach or suggest the capability of more than one mobile device to simultaneously communicate with a portable information terminal. An analogous argument is, therefore, asserted in traversal of the rejection of claim 3. Therein, at least for this deficiency the rejection of claim 3 as being unpatentable over *Martin* in view of *Fujii* under 35 U.S.C. §103(a) should be withdrawn.

In response to the arguments submitted November 22, 2005, the Examiner asserts that *Martin* does teach a plurality of mobile stations each capable of simultaneously participating in communication with a portable information terminal unit. (Examiner citing to *Martin* at col. 6, lines 40-45; AA page 2). In closing, the Examiner states that “*Martin* clearly shows a [portable

information terminal unit] simultaneously [in] communication with mobile stations". (AA page 2). We disagree as outlined in the Request for Reconsideration filed November 22, 2005.


Summarizing the arguments above and referring to the Advisory Action dated December 16, 2005, claims 1-7 require a plurality of mobile stations each capable of participating simultaneously in communication with a portable information terminal unit. Our assertion on appeal, in part, is that *Martin* teaches communication between a mobile device and a database or server (col. 6, line 38 to col. 7, line 33). There is no portability taught as being associated with a database or a server (*Martin*, col. 5, line 52 to col. 6, line 65; Figs. 1A to 2A). Further, *Martin* teaches that a PC 110 can be used to enable frequent transactions between a user of a mobile device and servers 130 or 132. Neither PC 110, servers 130 and 132, nor mobile devices 106 are taught by *Martin* as providing a portable information terminal capable of communication with multiple mobile devices. Secondary reference, *Fujii*, fails to compensate for this deficiency. At least for this deficiency the rejection of claims 1-7 as being unpatentable over *Martin* in view of *Fujii* being under 35 U.S.C. §103(a), should be reversed.

In view of the preceding amendments and remarks, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby earnestly solicited.

Respectfully submitted,

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